

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY	)	
d/b/a Ameren Illinois	)	
Petitioner	)	Docket No. 12-0293
	)	
Rate MAP-P Modernization Action Plan -	)	
Pricing Filing	)	

**REBUTTAL TESTIMONY OF MICHAEL L. BROSCHE**  
**ON BEHALF OF THE**  
**PEOPLE OF THE STATE OF ILLINOIS**  
**and AARP**

**DATED AUGUST 28, 2012**

## **DIRECT TESTIMONY OF MICHAEL L. BROSCHE**

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### **EXHIBIT LIST**

AG/AARP Exhibit No. -3.1 Updated AG Summary of Adjustments

AG/AARP Exhibit No. -3.2 Federal Reserve Board – Selected Interest Rates

AG/AARP Exhibit No. -3.3 Responses to AG 6.01, 6.02, 6.03, 6.04, 6.05, 6.09 and 6.10 (late payment revenues)

AG/AARP Exhibit No. -3.4 Responses to AG 6.24 through 6.27; with selected attachments.

## **I. INTRODUCTION / SUMMARY**

1 **Q. Please state your name and business address.**

2 A. My name is Michael L. Brosch. My business address is PO Box 481934, Kansas  
3 City, Missouri 64148-1934.

4 **Q. Have you prepared Direct Testimony that was previously filed in this**  
5 **proceeding?**

6 A. Yes. My Direct Testimony and related exhibits were prepared on behalf of the  
7 People of the State of Illinois represented by the Attorney General, (“Attorney  
8 General” or “AG”) and AARP. These documents were identified as AG/AARP  
9 Exhibits 1.0 through 1.9. My qualifications and previous testimonies were  
10 summarized within AG/AARP Exhibits 1.1 and 1.2, respectively.

11 **Q. What is the purpose of your Rebuttal testimony in this docket?**

12 A. This Rebuttal Testimony is responsive to the rebuttal testimony and exhibits that  
13 were submitted by Messrs. Nelson, Mill, Stafford and Heintz and by Ms. Pagel and  
14 Ms. Lord on behalf of the Ameren Illinois Utilities (“Ameren”, “AIC” or  
15 “Company”) on July 31 2012. These AIC rebuttal witnesses address issues raised  
16 in my prior Direct Testimony. My Rebuttal Testimony responds to the concerns  
17 raised by AIC regarding the various recommended AG/AARP test year adjustments  
18 and ratemaking procedures and also updates the AG/AARP rate case adjustments  
19 where necessary.

20 **Q. Please summarize the recommendations that are set forth in your testimony.**

21 A. As in Docket No. 12-0001 and my Direct Testimony in this Docket No. 12-0293, I  
22 continue to recommend the use of an average test year in the reconciliation

23 procedures for determination of AIC's final revenue requirement in each future  
24 year. My testimony again responds to AIC rebuttal arguments that favor use of the  
25 Company's much higher weighted average cost of capital ("WACC") as the basis  
26 for carrying costs on future reconciliation adjustments and I instead recommend that  
27 either a short term debt interest rate or an equally weighted short term and long term  
28 debt cost be applied to over or under-recoveries of AIC's revenue requirement  
29 when such reconciliation calculations are performed.

30 With regard to Cash Working Capital ("CWC"), I continue to recommend  
31 additional studies to improve the accuracy of the estimated revenue collection lag.  
32 However, given the Commission's Docket No. 11-0721 order regarding CWC in  
33 ComEd's formula rate case and the recently issued Proposed Order in AIC Docket  
34 No. 12-0001 accepting accounts receivable aging midpoint estimation of revenue  
35 collection lag days, I am limiting my rebuttal regarding CWC to respond only to the  
36 changes needed to correct Ameren's treatment of pass-through and income tax  
37 expenses in calculating CWC.

38 My rebuttal explains why AIC income tax expense should be significantly  
39 reduced to account for the effects of statutory Illinois State Income Tax rate  
40 changes in the same manner as proposed by ComEd in pending Docket No. 12-  
41 0321. As in AIC Docket No. 12-0001, my rebuttal also addresses Ameren's  
42 arguments favoring retention of significant amounts of Late Payment (also known  
43 as Forfeited Discount) revenues for its shareholders, indicating why the AIC  
44 revenue requirement should be reduced by 100 percent of these revenues. My  
45 rebuttal also addresses the Company's rebuttal arguments with respect to the  
46 various expense adjustments I sponsor regarding, disallowance of certain lobbying,

47 image advertising and event sponsorship expenses, and removal of CWIP related  
48 accounts payable from rate base. I have revised certain AG/AARP expense  
49 adjustments to recognize either AIC acceptance of the adjustment or updated  
50 information impacting the adjustment amount.

51 **Q. Have you updated the AG/AARP accounting schedules that were originally**  
52 **identified as AG/AARP Exhibit 1.3 to revise any of the adjustments that were**  
53 **proposed in your Direct Testimony and in Mr. Effron's Direct Testimony?**

54 A. Yes. AG/AARP Exhibit 3.1 represents a summary of the revenue requirement  
55 revisions being proposed by Mr. Effron and by me. The first page of the Exhibit  
56 sets forth the Company's asserted formula revenue requirement from rebuttal  
57 Ameren Exhibit 11.1, page 2. Revised AG/AARP adjustments are then posted in  
58 columns to the right of Ameren's asserted values, with supporting calculations  
59 appearing on subsequent pages, as referenced in the headings for each column. The  
60 sum of Mr. Effron's proposed adjustments is inserted at column (j) on page 1.

61 As noted in our Direct Testimonies, Mr. Effron and I have not, with  
62 available time and resources, been able to conduct a complete review of all aspects  
63 of the Company's filing. As a result, the limited adjustments we are proposing  
64 should be viewed as cumulative with the work and recommendations of  
65 Commission Staff and other parties' witnesses.

## 67 **II. AVERAGE RATE BASE.**

68  
69 **Q. How did the Company respond to your proposal that an "average" rate base**  
70 **be employed to calculate the reconciliation revenue requirement?**

71 A. Company witness Mr. Craig Nelson acknowledges that this rate base reconciliation  
72 issue will be resolved by the Commission in Docket No. 12-0001, but nonetheless  
73 discusses what he characterizes as the “problems with the use of an average rate  
74 base” at pages 3 through 10 of his rebuttal.<sup>1</sup> According to Mr. Nelson, there are  
75 three main concerns with the use of an average rate base:

- 76 • He is “...informed by counsel that the Energy Infrastructure Modernization  
77 Act (EIMA) requires use of a year-end rate base for reconciliation”;
- 78 • He claims that, “Use of a year-end rate base for reconciliation reflects  
79 appropriate ratemaking policy because it matches customers’ rates with the  
80 cost of the plant providing them service”; and
- 81 • “AIC would be adversely impacted by the use of an average calendar year  
82 reconciliation rate base.”<sup>2</sup>

83 I will respond to each of these points in the following testimony.

84 **Q. Is Mr. Nelson correct in stating that, “An average rate base is not ‘final’ data”**  
85 **as required in Section 16-108.5(d)(1) of the Act?**

86 A. No. The average rate base that I recommend be used in calculating the  
87 reconciliation revenue requirement would be based upon a two-point average of the  
88 actual final balances that are reported in the FERC Form 1. These amounts would  
89 be just as “final” and “historical” as any of the FERC Form 1 amounts that Mr.  
90 Nelson would need to use to calculate his preferred year-end rate base. Actual costs  
91 would be used to calculate either the average or year-end rate base amounts being  
92 discussed by the witnesses. I will leave to counsel and the Commission the other  
93 legal arguments posited by Mr. Nelson.

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<sup>1</sup> Ameren Ex. 9.0, at 2:41 through 10:213.

<sup>2</sup> Id., lines 48-56.

94 **Q. Mr. Nelson states, “Because the reconciliation period is a fully historical**  
95 **period, use of an average rate base ensures a match between the rates paid by**  
96 **ratepayers and the cost of the plant used to provide them service at that time.”**

97 **Is this correct?**

98 A. No. Mr. Nelson’s argument on this point may have merit under traditional  
99 ratemaking, but is misplaced in the context of formula ratemaking. Formula  
100 ratemaking is not attempting to set future rates based upon future costs. Instead, the  
101 reconciliation process ensures that Ameren will fully recover its actual, incurred  
102 historical costs through approved revenue levels that are reset in every year. Any  
103 concern about “matching” that may have applied under traditional regulation, where  
104 regulatory lag was possible, is no longer applicable.

105 The only “matching” that is required under formula ratemaking is  
106 meticulous matching of all costs within the reconciliation year. An average rate  
107 base is necessary to achieve such matching because the average approach represents  
108 the average level of invested capital in the business throughout the year, properly  
109 matching up with the expenses incurred throughout the year as reported in the  
110 FERC Form 1.

111 **Q. According to Mr. Nelson, “...the key question is whether the rates a customer**  
112 **is paying match the costs incurred to serve that customer. Obviously, there will**  
113 **never be a perfect match, but rate regulation should seek to avoid situations**  
114 **where customers are either not paying for plant that is currently serving them**  
115 **or are paying currently for plant that will not begin to serve them for some**  
116 **time.”<sup>3</sup> Is this true within the context of formula ratemaking?**

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<sup>3</sup> Id. lines 159-163.

117 A. No. The reconciliation serves to true-up actual costs incurred throughout the  
118 reconciliation year to the cost levels previously used to set rates for that year. Then,  
119 if customers are found after reconciliation to have not been paying enough through  
120 rates to recover the utility's actual, incurred cost levels, interest is added to the  
121 under-recoveries to make the utility whole while waiting for full cost recovery.  
122 There is no opportunity under EIMA formula ratemaking for customers to ever be  
123 responsible for a revenue requirement that is more or less than the actual, real  
124 (interest-adjusted) cost of plant used to serve them in each reconciliation year.

125 **Q. Mr. Nelson believes that the new formula rate regime has failed to eliminate**  
126 **regulatory lag and claims that, "If AIC experiences an increase in expenses (for**  
127 **example, resulting from its investment commitments under the Act) there is a**  
128 **lag of one year before recovery."**<sup>4</sup> **Do you agree?**

129 A. I agree that cash recovery of expense increases will lag the incurrence of higher  
130 expenses, but the reconciliation interest provisions within EIMA ensure that the real  
131 cost of any expense increases (including the time value of money) are fully  
132 recovered.

133 **Q. Mr. Nelson also claims that a "policy goal" that you agree with supports use of**  
134 **a year-end rate base, stating, "...the use of a year-end rate base reconciliation**  
135 **can help limit reconciliation balances."**<sup>5</sup> **Should Ameren be allowed to**  
136 **overstate its reconciliation balance through the use of a year-end computation**  
137 **in the interest of reduced reconciliation balances?**

138 A. Of course not. Rules for determination of the inception revenue requirement are  
139 prescribed in EIMA and within the Commission's orders in Docket Nos. 11-0721

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<sup>4</sup> Id. Lines 175-177.

<sup>5</sup> Id. Lines 182-194.

140 and 12-001 for ComEd and Ameren, respectively. Because these rules do not  
141 prescribe the use of projections of costs beyond certain specified elements of rate  
142 base, there is no realistic expectation of a perfect match of historical expense and  
143 rate base with the comparable actual amounts later calculated in the reconciliation.  
144 For example, the recovery of any experienced increases in overall operating  
145 expenses will be delayed and recovered with interest only after reconciliation.

146 Proper determination of the utility's actual invested capital throughout the  
147 reconciliation period, by using an average rate base, is essential to ensure that only  
148 actual cost levels are actually charged to customers after formula ratemaking has  
149 fully run its course, through the reconciliation calculation and cash recovery cycle,  
150 with interest added to amounts while awaiting recovery from or return to ratepayers.  
151 It is absurd and inconsistent with the formula ratemaking structure for Mr. Nelson to  
152 suggest that both inception rates and reconciliation revenue requirement amounts be  
153 calculated using a year-end rate base, merely to avoid potentially larger  
154 reconciliation balances when viewing rate base variances in isolation.

155 **Q. According to Mr. Nelson, AIC will be adversely affected by use of an average**  
156 **rate base because, "...by reconciling the reconciliation year rate base back to**  
157 **an average rate base, the reconciliation revenue requirement will be**  
158 **understated once again. In short, AIC will be forced to forego those dollars**  
159 **each year, as a permanent deferral, even though ratepayers were benefiting**  
160 **from a full year of the plant's service."**<sup>6</sup> **Is this correct?**

161 **A.** No. The reconciliation procedure will make Ameren "whole" for its actual costs  
162 incurred to provide service, plus interest that is to be accrued on any amounts over

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<sup>6</sup> Id. Lines 195-213.

or under-recovered. Mechanical differences that may exist in the determination of the inception versus the reconciliation revenue requirement are significant only to the utility's cash flow and do not affect its earnings due to the fact that the statute provides for interest during the period that reconciled revenue requirement amounts have not yet been credited or charged to customers. The only adverse impact possible under these circumstances is that AIC will be justly denied the opportunity to overcharge ratepayers for a full return on year-end investment levels that did not exist earlier in the year being reconciled.

### **III. RECONCILIATION INTEREST CHARGES.**

**Q. Mr. Nelson acknowledges that the Commission adopted a hybrid interest rate for application to reconciliation balances in ComEd Docket No. 11-0721, but then states, “[t]he use of a weighted cost of short-term and long-term debt would not compensate AIC for its actual costs of accessing capital in the markets to fund investments required under the statute. It effectively would require AIC to alter its capital structure to fund reconciliation amounts with a certain mix of debt, irrespective of: (i) the consequences of using only debt on AIC’s financial condition and credit ratings; (ii) whether such funding is prudent and; (iii) whether such funding is practicable.”<sup>7</sup> Is this true?**

**A.** No. First of all, the Commission is free to set the interest rate based upon any policy it deems reasonable. Moreover, in determining a reasonable reconciliation interest rate, the Commission is not dictating any particular financing transactions or changes in future capitalization by the utility. Ameren remains completely in

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<sup>7</sup> Id. lines 259-264.

control of and responsible for its financing plans and actions. Through its future financing activities, AIC may achieve a marginal cost of capital that is either higher or lower than the reconciliation interest rate approved by the Commission when it elects to access capital markets for any new funding that may be required. Finally, if Ameren decides to issue incremental new debt or equity capital in connection with either changes in its overall levels of investment in the business or to refund any maturing debt obligations, the full cost of such newly issued capital would be considered within the annual formula ratemaking updating the capital structure and cost rates to ensure that the utility is afforded an opportunity to recover its actual capital costs. It is my belief that the Commission must set a reasonable reconciliation interest rate and it is then up to AIC management to undertake future financing activities that correspond with its overall financial needs.

**Q. In your prior response, you referenced a “marginal” cost of capital as well as “incremental” new financing that Ameren may elect to employ. What is the significance of marginal capital costs to the determination of an appropriate interest rate for reconciliation balances?**

A. The only relevant cost of capital in setting an interest rate for future reconciliation balances is a future-looking rate of interest. The weighted average cost of capital (“WACC”) advocated by Ameren for use as the reconciliation interest rate is backward-looking and has nothing to do with the Company’s cost of marginal new capital. Ameren’s WACC simply is not indicative of the Company’s cost to finance the next “marginal” dollar of new capital investment, whether such new capital is used to fund reconciliation regulatory asset amounts or any other rate base asset. I would urge the Commission to be mindful of more than only Ameren’s known

historical sources of capital to determine a reasonable and compensatory marginal interest rate in connection with reconciliation balances.

**Q. Why should the Commission consider only a “marginal interest rate” in the context of reconciliation balances?**

A. The reconciliation revenue requirement represents a balance to either be collected from or returned to ratepayers. This balance will impact the utility’s future marginal cash flows, the “next” dollars of new financing that is either needed or avoided by Ameren if its reconciliation balances are positive or negative, respectively. From the Company’s perspective, if it must finance a regulatory asset associated with reconciliation amounts to be collected from ratepayers, it will do so using marginal working capital resources from available internal cash flows or from new dollars of short term debt, until more permanent financing is required. Ameren is not able to apply its already deployed permanent debt and equity capital, as summarized in its WACC, to finance the future marginal working capital requirements arising from the reconciliation process. These capital resources have already been deployed to support rate base assets. With regard to long-term debt in particular, the utility’s weighted cost is a function of timing of past debt issuances and market interest rates at those times and tells us nothing about the marginal cost of new debt.

**Q. Have you calculated a more appropriate blended interest rate that could reasonably be applied to Ameren’s reconciliation balances, based upon current marginal capital cost rates and the Commission’s short and long-term debt blending methodology?**

A. Yes. The Commission might look to published market interest rates for guidance with respect to current yields required to attract capital. I have included as

AG/AARP Exhibit No. 3.2 a copy of reported Selected Interest Rates from the Board of Governors of the Federal Reserve System for the week July 23, 2012.<sup>8</sup> It reports a yield percentage for Baa-rated corporate bonds of 5.05% and for short-term non-financial commercial paper annual current yields of 0.21%. Weighting these values together equally produces an interest rate based upon current marginal costs of short/long term debt of 2.63%.<sup>9</sup> Such a widely published report of currently available market interest rates could be updated annually to account for changing capital market conditions.

**Q. Why is it reasonable to equally weight the marginal cost of short term and long term debt in determining a reasonable reconciliation interest rate?**

A. The reconciliation balance should have an average term of about 24 months from the mid-point of the accumulation year being reconciled, to the mid-point of the recovery year. Over 24 months, the utility could elect to use and roll-over short term debt financing as it matures or could employ long term debt after a period of short term financing. The fact that a reconciliation balance can swing from positive to negative amounts each year may argue for use of a more than 50 percent weighting of short term debt, while the potential for persistently positive reconciliations after EIMA investments have ramped up in future years may argue for more permanent financing of reconciliation balances at that time. With these considerations in mind, an equal weighting of published market yields on short term and long term debt would accomplish a reasonable estimate of the time value of money associated with reconciliation balances awaiting recovery from, or return to ratepayers.

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<sup>8</sup> Available at: <http://www.federalreserve.gov/releases/h15/current/default.htm>

<sup>9</sup>  $(5.05\% + 0.21\%) / 2 = 2.63\%$

257 **Q. Have the Administrative Law Judges in AIC Docket No. 12-0001 recently**  
258 **issued a Proposed Order that addresses the issue of reconciliation interest rates**  
259 **to be applied?**

260 A. Yes. The Proposed Order dated August 23, 2012 approves use of the WACC in  
261 Docket No. 12-0001. This is a different outcome than was approved for ComEd in  
262 Docket No. 11-0721 and that is pending rehearing at this time. For the reasons  
263 stated herein, I recommend that a future-looking marginal cost rate be adopted that  
264 blends equally an estimated cost of corporate short term and long term debt. This  
265 approach would today result in an interest rate of 2.63 percent on future AIC  
266 reconciliation balances, but the referenced Federal Reserve System data should be  
267 updated at the time the Company files its first reconciliation calculation.

268 **Q. Is there another important issue that merits consideration in the Commission's**  
269 **evaluation of the rate and method of calculating interest on reconciliation**  
270 **balances?**

271 A. Yes. As I explained in my Direct Testimony in ComEd Docket Nos. 11-0721 and  
272 12-0321, as well as this docket, the utility experiences incremental income tax  
273 deferral benefits when it incurs costs that are recoverable through rate revenues in  
274 later periods. These tax deferral benefits will be recorded by Ameren as  
275 Accumulated Deferred Income Taxes ("ADIT") associated with the reconciliation  
276 regulatory asset/liability balances.

277 **Q. Why would Ameren record a regulatory asset or liability associated with the**  
278 **reconciliation of its annual revenue requirement on its books?**

279 A. The reconciliation revenue requirement amount owed to, or recoverable from  
280 ratepayers can be recognized by Ameren as a regulatory asset or liability. Statement

of Financial Accounting Standards 71 (“SFAS 71”)<sup>10</sup> recognizes that a unique consideration is introduced by rate regulation that may impact the relationship of costs and revenues. Regulators sometimes include incurred costs in the revenue requirement in a period other than the period in which the costs would be charged to expense by an unregulated enterprise. That procedure can create new regulatory assets (future cash inflows from the rate-making process), can reduce assets (reductions of future cash inflows from the rate-making process), or may create new regulatory liabilities (future cash outflows that will result from the rate-making process). Thus, under SFAS 71, a regulated utility is required to capitalize a cost as a regulatory asset or recognize an obligation as a regulatory liability, if it is probable that through the ratemaking process there will be a corresponding increase or decrease in future revenues.

**Q. Will Ameren also record Accumulated Deferred Income Taxes (“ADIT”) associated with its formula rate regulatory asset/liability balance?**

A. Yes. The recorded ADIT amounts associated with the EIMA reconciliation regulatory asset or liability represent the estimated income tax cash flow savings arising from the book/tax timing difference between when deductible expenses are incurred and when the related taxable revenues will be collected as a result of the reconciliation process.

**Q. What do you recommend regarding reconciliation interest calculations?**

A. The most practical way to account for non-investor supplied funds represented by ADITs in the reconciliation balance, given the structure of Ameren’s formula

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<sup>10</sup> Accounting Standards have recently been codified with legacy SFAS 71 now included within Accounting Standards Codification (“ASC”) 840 and 980.

ratemaking on its Schedule FR A-4,<sup>11</sup> is to proportionately reduce the allowed interest rate to a net of income tax equivalent rate. This can be accomplished by multiplying the Commission-approved interest rate at line 4 by the inverse of the composite income tax rate on a new line 5, to determine an equivalent net of income tax rate on a new line 6. Mathematically, using the 2.63 % interest rate previously described in my testimony, this would appear as follows:

Ln	Description	Source	Amounts
1	Annual Interest Rate	Fed Reserve Board Published Rates	2.63%
2	Net of Tax Factor	1 – 41.175% (Sch FR C-4, line 4)	.58825
3	Net of Tax Rate	Line 4 * Line 5	1.55%
4	Monthly Rate	Line 3 / 12 months	0.13%

Factoring the allowed Annual Interest Rate to reflect the tax impact of the delayed revenue recovery and the ADIT arising from the reconciliation process recognizes the effect of the extra cash retained by the Company due to the income tax deferrals reflected in the ADIT balance and is a more precise accounting for such income tax effects. Another benefit of my recommended approach is that it accurately and effectively matches the ADIT balance to the ultimate approved reconciliation balance, correcting for any imprecise estimates that may have been recorded as ADIT balances on the Company's books.

**Q. If the reconciliation interest rate is modified by future Commission order, should the “Net of Tax Factor” shown in your table be applied to any revised interest rate used in the future?**

<sup>11</sup> See Ameren Ex. 11.1, page 6.

321 A. Yes.

322 **IV. CASH WORKING CAPITAL ISSUES.**

323

324 **Q. In rebuttal, has the Company proposed any revisions to its proposed allowance**  
325 **for Cash Working Capital (“CWC”)?**

326 A. Yes. At page 3 of his rebuttal, Mr. Heintz accepts a Staff- proposed modification to  
327 the base payroll and withholding lead day value to 11.84 days.<sup>12</sup> Then, at page 10  
328 Mr. Heintz indicates the Company’s acceptance of my proposed revision to the  
329 benefits expense lead days to account for the timing of pension expense payments.<sup>13</sup>  
330 I have reflected these changes within AG/AARP Exhibit 3.1, page 2 at lines 1 and 3  
331 in column (d).

332 **Q. At page 4 of his rebuttal, Mr. Heintz is critical of Staff witness Kahle’s**  
333 **assignment of a zero revenue lag value to Energy Assistance Charge (“EAC”)**  
334 **and Municipal Utility Taxes (“MUT”) test year amounts. Did you recommend**  
335 **the same approach for the EAC/MUT cash flows as Staff witness Kahle?**

336 A. Yes. Because these taxes become payable only after AIC collects revenues from its  
337 customers, a zero revenue lag day value is appropriately assigned to these amounts  
338 as depicted at AG/AARP Exhibit 3.1, page 2, at lines 10 and 11 (see column h in  
339 contrast to AIC position in column c). In my Direct Testimony, I explained this  
340 position as representing, “Reinstatement of the Commission’s ordered treatment of  
341 pass-through taxes, assigning no revenue lag to these amounts where Ameren

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<sup>12</sup> Ameren Ex. 13.0, page 3, lines 48-54.

<sup>13</sup> Id. page 10, lines 215-219.

342 serves as the collection agent and no tax is owed until after revenues are collected  
343 by Ameren.”<sup>14</sup>

344 **Q. According to Mr. Heintz’ Rebuttal, “Mr. Kahle does not discuss how the**  
345 **amounts related to pass-through taxes are collected by the Company. Under**  
346 **the logic of his adjustment, they would just appear in the Company’s bank**  
347 **account.” Is this a valid criticism of the Commission’s prior treatment of**  
348 **EAC/MUT amounts, as maintained in your Direct Testimony and by Staff**  
349 **witness Mr. Kahle?**

350 A. No. The tax liability for EAC and MUT affixes at the time revenues have been  
351 collected. This means that there is no applicable revenue lag to account for the days  
352 prior to revenue collection when no taxes are owed. Mr. Heintz would apparently  
353 ignore the timing of tax liability incurrence and pretend that EAC and MUT  
354 becomes payable concurrent with the provision of utility service, which is incorrect  
355 and inconsistent with past ICC Orders.<sup>15</sup>

356 **Q. Mr. Heintz also argues that, “If there is no revenue lag, as suggested by Mr.**  
357 **Kahle, there can be no CWC requirement associated with the pass-through**

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<sup>14</sup> AG/AARP Ex. 1.0, page 21, lines 472-475. See also AG/AARP Ex. 1.5, page 13 and 14 for supporting testimony.

<sup>15</sup> In its Final Order dated 4/29/10 in Docket No. 09-0306 (Cons.) at page 54 the Commission stated, “As an initial matter, the Commission accepts Staff’s argument that the utility has no “investment” associated with pass-through taxes. Since every dollar for pass-through taxes is collected from the ratepayers, the inflows and outflows earmarked for these taxes should be perfectly balanced. Thus the need for CWC should not arise with respect to pass-through tax transactions. This conclusion is consistent with prior Commission decisions. Nicor Docket No. 08-0363 at 11-12.”

Again in its Final Order in ComEd Docket No. 10-0467 dated May 29, 2012 at page 45 the Commission stated, “The Commission agrees with Staff and the intervenors’ proposal to use zero revenue lag days for EAC/REC and GRT/MUT. This was also the decision of this Commission in the Company’s prior docket, Docket 10-0467. The Commission notes that ComEd’s process for collecting and remitting pass-through taxes has not changed since Docket 10-0467. The Commission finds that pass-through taxes should not be assigned a revenue lag because they are payable after revenues are collected from customers.”

**taxes. To measure the CWC requirement, the dates on which the funds are received and remitted must both be known.”<sup>16</sup> Is this correct?**

A. Not always. In the case of EAC/MUT cash flows, the obligation to pay exists only when revenues have already been collected. This fact justifies utilization of a zero revenue lag for these cash inflows with no further “measurement”, because revenue has been collected (with no lag) when the payment lead interval for EAC/MUT commences.

**Q. Turning to income taxes within the lead lag study, at page 18 Mr. Heintz states, “The Company has a long-standing practice of employing statutory tax rates and payment dates when calculating its income tax expense for revenue requirement purposes. As such, the Company does not distinguish between current and deferred tax expense.” Is there a difference between “calculating income tax expense” and calculating cash working capital (“CWC”) associated with income taxes?**

A. Yes. The crucial distinction is that CWC involves the study of cash flows and deferred income taxes involve no cash flows because they are “deferred” rather than being paid to taxing authorities. There can be no payment lead days if there is no payment. Ameren’s use of statutory tax rates to calculate income tax expense does not create a cash payment. In fact, all of AIC’s calculated income tax expenses are deferred on the Company’s balance sheet, adding to Accumulated Deferred Income Taxes (“ADIT”) instead of being remitted to taxing authorities.

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<sup>16</sup> Ameren Ex. 13.0, lines 114-116.

379 **Q. Does the Company’s filing distinguish between current and deferred income**  
380 **taxes, contrary to Mr. Heintz testimony on this subject?**

381 A. Yes. This distinction can be observed in Schedule C-4, page 6, where AIC’s  
382 recorded currently payable Income Taxes (Federal )have been negative in each of  
383 the years 2008 through 2011 and its recorded currently payable Income Taxes  
384 (State ) have been negative in all these historical years except for 2009. More than  
385 100% of AIC’s total income tax expense has consisted of “Provision for Deferred  
386 Income Taxes” on Schedule C-4 across all recent historical periods.

387 **Q Mr. Heintz attempts to deflect consideration of the fact that AIC pays no**  
388 **income taxes and records only deferred income taxes on its books by stating,**  
389 **“The differentiation between current and deferred income tax expenses can**  
390 **swing between rate cases, reflecting then current tax laws. The use of statutory**  
391 **tax rates and payment dates maintains a consistent treatment of income tax**  
392 **expense for ratemaking purposes and avoids such swings in balances.” Does**  
393 **history support this notion of “swings” between rate cases?**

394 A. No. The Company’s Schedule C-4 indicates remarkable consistency in paying no  
395 current taxes historically, while recording only deferred income tax expenses.  
396 Moreover, no “swings” toward currently payable income taxes are expected in the  
397 near future. Ameren Corporation has announced in its SEC Form 10Q filings that  
398 its net operating loss (“NOL”) tax carryforwards should prevent the Company from  
399 actually paying federal income taxes until 2014.<sup>17</sup> Even if we assume Mr. Stafford’s

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<sup>17</sup> According to the Ameren Corporation SEC Form 10Q filed on 8/8/2012 at page 87, “As of June 30, 2012, Ameren had approximately \$750 million in federal income tax net operating loss carryforwards (Ameren Missouri – \$220 million, Ameren Illinois – \$275 million, Genco – \$80 million) and \$85 million in federal income tax credit carryforwards (Ameren Missouri – \$13 million, Ameren Illinois – \$– million,

concern about future “swings” in the mix of current versus deferred income tax expense amounts is valid, formula ratemaking provides an opportunity to annually update the relevant calculations to revise total income tax expense for all of the impacts (current and deferred expense provisions).

**Q. Did ComEd have positive deferred income taxes and negative currently payable income taxes in calculating its proposed formula rates in Docket No. 11-0721?**

A. Yes. ComEd’s income tax posture is similar to AIC, where large income tax deductions have caused more than 100 percent of ratemaking income tax expense to be in the form of deferred, rather than currently payable, income taxes.

**Q. How did the Commission address ComEd’s current and deferred income taxes in its Final Order addressing Cash Working Capital in Docket No. 11-0721?**

A. Appendix A to the Docket No. 11-0721 Final Order at page 11 presents a calculation of the approved Cash Working Capital Adjustment for ComEd. The Commission approved inclusion of the negative amount of currently payable State Income Tax and Federal Income Tax expense, at lines 26 and 27 of the Cash Working Capital calculation and reduced the “Total Receipts” subject to the revenue lag at lines 1 and 6 for such negative currently payable income tax outlays.<sup>18</sup> Notably, no amount of deferred state or federal income taxes were

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Genco – \$1 million). These carryforwards are expected to offset income tax liabilities into 2013 for Ameren

Missouri, while Ameren Illinois and Genco will be offset into 2014.” .

<sup>18</sup> Mr. Heintz is also ComEd’s CWC witness in Docket No. 12-0321, that utility’s pending formula rate and reconciliation proceeding. In ComEd’s response to Data Request No. AG 7.20 in Docket No. 12-0321, ComEd indicated it had filed in compliance with the Commission’s ordered treatment of income taxes in its lead lag study, but noted that, “ComEd does not agree with this calculation and treatment of this

included in Appendix A, page 11, as is now being recommended by Mr. Heintz for Ameren.

**Q. Do you have a further response to Mr. Heintz’s statement that “The differentiation between current and deferred income tax expenses can swing between rate filings, reflecting then current tax laws. The use of statutory tax rates and payment dates maintains a consistent treatment of income tax expense for ratemaking purposes and avoids such swings in balances.”<sup>19</sup>**

A. Yes. Mr. Heintz’s point is not valid. It is always necessary to isolate and exclude non-cash expenses such as depreciation expense, amortization expense and deferred income taxes when calculating cash working capital. This is a routine practice that is widely accepted in Illinois and other states. Only cash expenses belong in lead lag studies and deferred income taxes are not cash expenses. Further, as I noted above, Ameren does not expect to pay income taxes any time soon, given its utilization of bonus depreciation and tax accounting changes on recent filed returns, so Mr. Heintz’ speculation regarding any “swing” in current versus deferred income taxes is misplaced. Moreover, if any future “swings” occur, formula ratemaking provides an annual opportunity to adjust for changed amounts of current versus deferred income taxes.

**Q. Does Ameren recognize that deferred income taxes are non-cash expenses in its published financial statements?**

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issue, however since the Order in Docket No. 11-0721 approved this methodology ComEd has reflected it in ComEd Ex. 16.1”

<sup>19</sup> Ameren Ex. 15.0, page 26, lines 554-557.

439 A. Yes. In Ameren Corporation's Consolidated Statement of Cash Flows, Deferred  
440 income taxes are recognized as an adjustment to reconcile net income to net cash  
441 provided by operating activities, because deferred income tax expenses are recorded  
442 as expenses but do not require cash outflows.<sup>20</sup> This acknowledgement of  
443 depreciation and deferred income taxes as non-cash expenses can also be observed  
444 in the Company's filed WPD-7, page 10, lines 4 and 2, where the Company's non-  
445 cash expenses such as Deferred Income Taxes and Depreciation/Amortization are  
446 added back to Net Income in order to determine "FUNDS FROM OPERATIONS."

447 **Q. What should be done with regard to income taxes in AIC's lead lag study?**

448 A. Only "currently payable" income taxes involve any cash outflows that should be  
449 included in the lead lag study. Since Ameren is not currently paying income taxes,  
450 and has calculated negative current income tax expenses in its rate filing, there  
451 should be no Cash Working Capital impact from income taxes. This result is best  
452 accomplished by setting the lag values to zero as shown in AG/AARP Ex. 3.1, page  
453 2, line 18. Alternatively, I do not object to the treatment applied by the  
454 Commission to ComEd's income tax posture which was comparable to Ameren's,  
455 in which the negative amount of currently payable income taxes are reflected in  
456 both the expense lead calculation and as a reduction to revenues that are subjected  
457 to the revenue lag.

458 **Q. Does AG/AARP Ex. 3.1 at page 2 reflect an updating of your Cash Working**  
459 **Capital ("CWC") calculations, based upon operating expense inputs from the**  
460 **Company's rebuttal filing?**

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<sup>20</sup> See Ameren Corporation combined Annual Report to Shareholders and SEC Form 10-K for 2011, page 83.

461 A. Yes. The operating expense input amounts in column (b) of this lead/lag study  
462 should be updated in the Commission's ordered amounts in this Docket, and then  
463 applied to the CWC Factor amounts shown in column (k) to derive total CWC that  
464 is includable in the AIC formula rate base.

465

466 **V. LATE PAYMENT REVENUE ALLOCATIONS.**

467

468 **Q. Has Ameren agreed with the AG/AARP proposal to treat 100 percent of Late**  
469 **Payment Charge revenues as ICC jurisdictional and credited in determining**  
470 **the formula rate revenue requirement?**

471 A. No. As in Docket No. 12-0001, Mr. Stafford agrees that the entire amount of late  
472 payment revenues are ICC jurisdictional, but does not agree that all late payment  
473 charge revenues should be attributed to electric delivery service.<sup>21</sup>

474 **Q. How does Mr. Stafford explain his view that Ameren needs to retain some of**  
475 **the late payment revenues, instead of crediting them to the Illinois revenue**  
476 **requirement?**

477 A. He first refers to past ICC ratemaking, indicating, "This Commission has a long-  
478 standing practice for AIC's electric utilities, in rate orders dating back at least to the  
479 unbundling of electric service rates in Docket No. 06-0070 (Cons.), to include in  
480 electric DS cost of service and revenue requirement only electric distribution  
481 system costs to be recovered through electric delivery service base rates  
482 revenues."<sup>22</sup>

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<sup>21</sup> Ameren Ex. 11.0R, page 29, lines 612-631.

<sup>22</sup> Id. Lines 649-653.

Mr. Stafford then asserts a vague need to “add back to revenue requirement” some undefined amounts of Rider PER, Rider TS, Rider EDR, Rider PSP and UCB/POR related operating expenses when making the AG/AARP late payment charge revenue adjustment.<sup>23</sup> He argues, “As I have testified in Docket No. 12-0001, the Company does not recover all of its electric power supply related costs currently through Rider PER and also does not credit back through Rider PER late payment revenues associated with electric power supply.”<sup>24</sup>

Additionally, Mr. Stafford criticizes the AG/AARP proposal, not with factual evidence, but with pejorative comments suggesting, “what should be very clear to Mr. Brosch by now”, and by referencing “underlying data that is very transparent” with Mr. Stafford then stating that, “The fact that AG/AARP still does not get it is, either due to a fundamental lack of understanding of ratemaking and tariff setting in Illinois, or an attempt to create confusion and cloud the facts in evidence in an effort to obtain an incorrect, asymmetrical, approach to the setting of delivery service rates in this proceeding.”<sup>25</sup>

**Q. Do the prior rate cases cited by Mr. Stafford provide any support for his assertion that late payments charge revenues should not be treated entirely as a delivery service revenue credit?**

**A.** No. In each rate case there should be a full and complete accounting for all AIC revenues, including late payment revenues. I assume that Mr. Stafford would have cited any past ICC decisions specifically addressing jurisdictional allocation of late payment charge revenues if the issue I raised had previously been considered.

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<sup>23</sup> Ameren Ex. 11.0R, page 33, lines 706-716.

<sup>24</sup> Id, lines 719-722.

<sup>25</sup> Id, lines

505 Instead of providing such a specific citation, Mr. Stafford generally references the  
506 Commission's past practice, which for Ameren apparently included retention of late  
507 payment revenues for shareholders solely because this practice was not previously  
508 challenged. In its response to data request AG 6.05(b), AIC stated that, "Mr.  
509 Stafford is not aware of any AIC rate proceeding, prior to Docket No. 12-0001  
510 where any party recommended attribution of 100 percent of late payment charge  
511 revenues to offset the delivery service revenue requirement in the manner proposed  
512 by Mr. Brosch."

513 **Q. Are you aware of any specific ICC rate order where a full accounting for late**  
514 **payment revenues was disputed on the record and then required by the**  
515 **Commission?**

516 A. Yes. In ComEd Docket No. 10-0467, I challenged the revenue-based jurisdictional  
517 allocation of late payment revenues that ComEd had been practicing in its previous  
518 rate cases that was similar to Ameren's current proposal. In its Order dated May  
519 24, 2011, the Commission accepted the adjustment I proposed, with the explanation  
520 that was quoted in my Direct Testimony.<sup>26</sup>

521 **Q. Is there any need to "add back" any rider-related operating expenses if late**  
522 **payment charge revenues are treated as 100 percent jurisdictional in**  
523 **determining the AIC revenue requirement?**

524 A. No. It would be reasonable to assume that each of the various tariffs and riders that  
525 are separately administered for AIC operations are properly based upon reasonable  
526 isolation of relevant costs for recovery through such tariff/riders. If there is some  
527 deficiency in cost recovery in a particular tariff or rider, Ameren or some other

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<sup>26</sup> AG/AARP Ex. 1.0, page 38, lines 869-923.

party should petition the Commission to remedy any cost recovery problems that exist. However, it is not reasonable for Ameren to simply exclude late payment revenues from the delivery services jurisdiction, just in case there might be some perceived but unproven under-recovery of Rider-related costs.

**Q. Was the Company asked to provide a detailed listing and quantification of the specific types and amounts of each type of production, transmission or other cost that Mr. Stafford believes should be added back into the revenue requirement if late payment revenues are fully revenue credited as proposed by AG/AARP?**

A. Yes. Data request AG 6.09 posed this question and the Company objected, rather than providing such information. I have included within AG/AARP Exhibit 3.2 copies of several AG data requests on this topic of late payment charge revenues and rider costs, including the AIC responses to data requests AG/AARP 6.01, 6.02, 6.03, 6.04, 6.05, 6.09 and 6.10.

**Q. At page 34 of his rebuttal Mr. Stafford suggests an “appropriate solution for addressing the treatment of the portions of late payment revenues that are not related to electric delivery services”. Should Mr. Stafford’s “solution” be approved?**

A. No. The Commission should not allow AIC to retain for shareholders the majority of its late payment revenues and then later, “... address changes to Rider PER either at the time of the Rate Redesign proceeding or at the time of the next Rider PER update filing to consider both electric power supply related costs not recovered through electric DS rates and late payment revenue charges related to the electric

power supply portion of a customer's bill.”<sup>27</sup> Any alleged problems that may exist with Rider PER or other AIC riders are independent of this formula rate review. As noted previously, the Company was asked to provide documentation and quantification of all costs it is failing to recover through other tariff riders and these requests were met with objections rather than responsive information. In this docket, the Commission should correct inappropriate allocation of late payment revenues that are collected by the utility as part of its delivery services function.

**Q. Do you intend to specifically respond to Mr. Stafford’s aspersions directed toward you and AG/AARP regarding the basis and support for your adjustment to late payment revenues?**

A. No. What is important to me is that the Commission understands what Ameren is saying and doing with late payment revenues. The recently issued proposed decision in Docket No. 12-0001 indicates an understanding by the Administrative Law Judges that a full accounting for AIC late payment revenues is needed in establishing formula rates for this utility and for ComEd, in spite of past practices that may have inaccurately accounted for such revenues. At page 105 of the Proposed Order issued in Docket No. 12-0001, the recommended decision on this issue is concluded with the statement, “Retaining for shareholders 58% of late payment revenues supplied by ratepayers is a disservice to ratepayers. The Commission accordingly adopts the AG/AARP adjustment on this issue. Furthermore, the Commission notes that this outcome is consistent with how similar revenue is treated for ComEd's revenue requirement calculation.”

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<sup>27</sup> Id. page 31, lines 723-726.

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**VI. STATE INCOME TAX RATE CHANGE.**

577

578 **Q. In your Direct Testimony you proposed an adjustment to the Company's**  
579 **asserted income tax expenses to account for the full impact of the State Income**  
580 **Tax rate changes occurring in 2011. Does Ameren dispute any of the factual**  
581 **background regarding this issue in your testimony?**

582 **A.** No. The Company's rebuttal on this issue concedes that "the phenomenon of  
583 having at tax rate increase generating tax savings should be reflected in the revenue  
584 requirement" and that "[t]his phenomenon is material in 2011, with the tax rate  
585 change not being permanent."<sup>28</sup>

586 **Q. In AG/AARP Exhibit 1.3, page 4, you included an adjustment captioned,**  
587 **"Estimated Deferred Tax Savings from Schedules Reduction in future Illinois**  
588 **State Income Tax Rates" in the amount of \$6.128 million. Has Mr. Stafford**  
589 **now provided a more specific calculation of the annual tax expense savings for**  
590 **2011 in his rebuttal?**

591 **A.** Yes. He states:

592 As shown on Ameren Exhibit 11.3, the change in deferred  
593 income tax expense of calculating current income tax expense at  
594 9.5% but amortizing 2011 tax benefits at 7.75% or 7.3% results in  
595 a reduction to 2011 actual jurisdictional income tax expense of  
596 \$4.137 million. The source data for this calculation is AIC's Part  
597 285 Schedule C-5.2 which provides deferred income tax support  
598 for the total current and deferred income taxes on Schedule C-5a,  
599 and isolates the components of deferred income tax expense that  
600 give rise to the anomaly of income tax expense below the effective  
601 rate of 9.5%.

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<sup>28</sup> Ameren Ex. 11.0R, page 37, lines 782-786.

As also shown on Ameren Exhibit 11.3, the reduction to state income tax expense of \$6.365 million is partially offset by a higher federal income tax expense of \$2.228 million. As explained previously, since state income tax expense is deductible for federal, the lower state income tax expense amount results in a lower deduction for the calculation of federal income tax expense, and a corresponding increase in federal income taxes. This net reduction of \$4.137 798 million is close to the "placeholder" calculation of \$3.983 million submitted by CUB in their direct testimony. AG/AARP's "placeholder" calculation of \$6.128 million recognized the reduction in state income tax but not the offsetting increase in federal income tax expense.

As discussed further below, AIC is reflecting the tax rate change phenomenon in calculation of rebuttal revenue requirement.

Unfortunately, Mr. Stafford's method of "reflecting the tax rate change phenomenon in calculation of revenue requirement is much different than the adjustments being proposed by AG/AARP and CUB and is much different than the treatment of this same issue by ComEd in Docket No. 12-0321.

**Q. Have you revised AG/AARP Exhibit 3.1 to include the revised downward adjustment to income tax expense that was calculated by Ameren and presented in Mr. Stafford's rebuttal?**

A. Yes. Page 4 of AG/AARP Exhibit 3.1 now reflects the amounts stated in the previously quoted Stafford rebuttal testimony. The Company's 2011 income tax expenses for ratemaking purposes should be reduced by the net amount of \$4.137 million to account for the temporary nature of State income tax ("SIT") rate changes.

**Q. Why is an adjustment still needed, if Ameren has now conceded the need to recognize the expense impact of SIT rate changes?**

A. Ameren proposes to include only a one-fifth fraction of the expense reduction within income tax expenses. According to Mr. Stafford, "Ameren Exhibit 11.1,

Schedule FR B-1, line 31 and App 5 have been adjusted to reflect amortization of the \$4.137 million credit due to the tax rate change. Total costs of \$4.137 million are being amortized over 5 years, with 1/5 of the cost included in operating expense in the amount of \$827,000 and the remaining 4/5, or \$3,310 million of the credit included in Rate Base, as further detailed in AIC Exhibit 11.1, App 7, line 29.”<sup>29</sup> By “amortizing” the 2011 permanent income tax expense savings over five years, AIC will effectively deny ratepayers participation in the other 4/5 of the annual deferred income tax expense savings caused by temporarily higher SIT rates in 2011. The adjustment now set forth in AG/AARP Exhibit 3.1, page 4, replaces the 4/5 share of the needed adjustment to income tax expenses, moving this amount from rate base back into the 2011 operating income computations.

**Q. Why does Mr. Stafford advocate amortization over five years of the annual expense savings arising from temporarily higher SIT rates?**

A. At page 39 of his rebuttal, two reasons are offered for Ameren’s unusual treatment of permanent income tax expense savings. First, according to Mr. Stafford, “Since this tax rate change exceeds \$3.7 million, Section 16-108.5(c)(4)(F) of the Act requires charges or credits “including those related to taxes” to be recognized as a deferral subject to amortization, consistent with the charge for an incremental storm event that was deferred in the Company's direct filing.” Then, he states, “Consistent with treatment of the incremental storm event discussed at pages 22-23 of my Direct Testimony, which no party opposed, since the tax rate change giving rise to the deferred income tax expense reduction occurred in the year prior to AIC's opt-in to formula rates and prior to the first calendar year reconciliation and

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<sup>29</sup> Ameren Ex. 11.0R, page 39, lines 833-838.

true-up, the Company does not intend to continue the deferral and amortization of this credit in subsequent formula rate proceedings.”<sup>30</sup>

**Q. What is the effect of the Company’s proposed treatment of deferred income tax expense savings arising from the temporary increase to SIT rates?**

A. The effect is to deny ratepayers participation now, or in future years, for the other 4/5 of permanent income tax expense savings experienced by AIC in 2011. My understanding of Mr. Stafford’s reference to storm costs is that AIC intends to not credit ratepayers for any of the last four years’ amortization for the permanent income tax savings he would “defer” in 2011.

**Q. Should the 2011 income tax savings arising from temporarily higher SIT rates be deferred and amortized?**

A. No. These are permanent and ongoing expense savings and are not abnormal or non-recurring in nature. These income tax savings are not comparable to large and unusual storm restoration events or one-time severance events that are routinely deferred and normalized for ratemaking purposes. Mr. Stafford’s analogy to storm costs is inapplicable to the SIT rate change income tax savings that Ameren can expect to realize in each future year under current law.

**Q. Is deferral and amortization of the 2011 income tax savings arising from temporarily higher SIT rates required under Section 16-108.5(c)(4)(F) of the Act, as indicated by Mr. Stafford?**

A. No. This section provides for:  
  
(F) amortization over a 5 year period of the full amount of each charge or credit that exceeds \$3,700,000 for a participating utility that is a combination utility or \$10,000,000 for a participating utility that serves more than 3 million retail customers in the applicable calendar year and that relates to a workforce reduction program’s severance costs, changes in accounting rules, changes in law,

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<sup>30</sup> Id. page 39, lines 830-843.

683 compliance with any Commission initiated audit, or a single storm or other  
684 similar expense, provided that any unamortized balance shall be reflected in rate  
685 base. For purposes of this subparagraph (F), changes in law includes any  
686 enactment, repeal, or amendment in a law, ordinance, rule, regulation,  
687 interpretation, permit, license, consent, or order, including those relating to taxes,  
688 accounting, or to environmental matters, or in the interpretation or application  
689 thereof by any governmental authority occurring after the effective date of this  
690 amendatory Act of the 97th General Assembly;  
691

692 Mr. Stafford has focused upon the phrase “including those relating to taxes” and  
693 apparently believes that the SIT rate change impact should be deferred because it falls  
694 within the “changes in law” element of the listing in this section. However, the  
695 overall net impact of the changes to income tax expense arising from new SIT rates  
696 does not reach the \$3.7 million threshold that requires deferral and amortization.

697 Using Mr. Stafford’s testimony with regard to SIT rate change impacts, he  
698 observes that the change from 7.3% to 9.5% SIT rates within the Company’s  
699 calculation of current income taxes on Schedule C-5a produced a “net increase in  
700 state and federal income tax expense of \$1,813,717.”<sup>31</sup> Then, in response to the issue  
701 raised in my Direct Testimony, Mr. Stafford admits that, “As shown on Ameren  
702 Exhibit 11.3, the change in deferred income tax expense of calculating current income  
703 tax expense at 9.5% but amortizing 2011 tax benefits at 7.75% or 7.3% results in a  
704 reduction to 2011 actual jurisdictional income tax expense of \$4.137 million.”<sup>32</sup> The  
705 overall net impact of the SIT rate change, using the Company’s numbers, is the  
706 combined increase of \$1,813,717 less the reduction of \$4,137,000 which nets to  
707 \$2,323,283. This \$2.3 million net impact arising from SIT rate changes does not  
708 meet the criteria specified in the referenced section of the law.

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<sup>31</sup> Ameren Ex. 11.0R, line 760.

<sup>32</sup> Id. line 786.

709 **Q. Irrespective of the dollar threshold for changes in law under formula**  
710 **ratemaking, is deferral and amortization of AIC's deferred income tax expense**  
711 **savings arising from SIT rate changes appropriate?**

712 A. No. Unusual, extraordinary events or costs that are non-recurring in nature are often  
713 considered for deferral and amortization ratemaking, so as to spread out and  
714 "normalize" the amounts included in revenue requirements to be paid by customers.  
715 For example, the high expenses that are incurred by utilities after extreme storm  
716 events in order to quickly restore service are routinely deferred and amortized by  
717 regulators to avoid setting rates as if such severe storms occur in every year that new  
718 rates are in effect. In contrast, the higher currently payable income taxes and the  
719 offsetting deferred income tax expense savings created under revised SIT rates are not  
720 unusual, extraordinary or non-recurring. The pattern of higher current income taxes  
721 offset by lower deferred income tax expenses for property-related book/tax timing  
722 differences will persist in future years. It would be inappropriate as a matter of  
723 ratemaking policy to defer and amortize a pattern of income tax expense impacts  
724 under new SIT rates that will be recurring in future years.

725 **Q. Will Ameren actually pay income tax expenses at the new 9.5% SIT rate on all of**  
726 **its income earned under Illinois formula ratemaking?**

727 A. No. AIC is not currently paying any State Income Tax and the Company's calculated  
728 overall tax expense reveals an expectation of continued negative currently taxable  
729 income in the future.<sup>33</sup> Large income tax deductions have resulted from tax  
730 accounting changes adopted by Ameren that permit current deduction as "repairs"

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<sup>33</sup> See Schedule C-5a, page 3, line 65 which shows Total State Current Income Taxes in the Jurisdictional Expense column total \$16.3 million of negative taxes payable in cash, while line 66 shows positive State Deferred Income Taxes of \$28.3 million.

731 expenses for property-related costs that are capitalized on the books as Plant in  
732 Service. These deductions, as well as the continuing large deductions for “bonus” tax  
733 depreciation in 2012, have the effect of deferring the Company’s income tax liability  
734 into distant future periods when Illinois SIT rates are scheduled to revert to lower  
735 levels.

736 **Q. If circumstances change, such that AIC begins paying income taxes at the higher**  
737 **currently effective SIT in future years, will annual formula ratemaking allow the**  
738 **Company to recognize and fully collect income tax expenses under then current**  
739 **conditions?**

740 A. Yes. Another reason why it is inappropriate to defer and amortize the deferred  
741 income tax expense savings associated with SIT rate changes is that formula  
742 ratemaking provides an opportunity to annually update the relevant calculations to  
743 revise total income tax expense for all of the impacts (current and deferred expense  
744 provisions) caused by the SIT rate change.

745 **Q. What changes have been made to the placeholder adjustment you included in**  
746 **AG/AARP Exhibit 1.3 filed with your Direct Testimony?**

747 A. AG/AARP Exhibit 3.1 has been revised, at page 4, to reverse the inappropriate  
748 deferral and amortization SIT rate adjustments now being proposed by Mr. Stafford  
749 in AIC’s rebuttal. The incremental ratemaking adjustment needed to fully and  
750 correctly account for deferred income tax expense savings arising from new SIT  
751 rates, without deferral and amortization, is included at line 5 of page 4, with the same  
752 amount added back to rate base to reverse Mr. Stafford’s inappropriate deferral and  
753 amortization treatment of such amounts.

VII. OPERATING EXPENSE ADJUSTMENTS.

A. Lobbying Expense

**Q. How did Ameren respond to the adjustment you proposed at AG/AARP Exhibit 1.3, page 5, to reduce Edison Electric Institute dues for lobbying expenses contained therein?**

A. The Company has accepted this adjustment and included it within the revised revenue requirement presented in Ameren Ex. 11.2.<sup>34</sup> With this change by Ameren, I have removed this adjustment from AG/AARP Exhibit 3.1 because the starting point for this Exhibit is Ameren asserted rebuttal revenue requirement.

B. Image Advertising Expenses

**Q. How has Ameren responded to your proposed adjustment to remove the “Focused Energy for Life” image advertising expenses appearing at page 6, line 1 of AGAARP Exhibit 1.3.**

A. Ameren witness Ms. Lord states that, “[a]lthough each of the messages concludes with the tagline, *Focused Energy. For Life.*, in conjunction with the logo, the advertising in question should not be thought of simply as *Focused Energy. For Life.* advertising. Rather, it is a series of educational messages distributed via mass media, which is the most cost effective means of reaching AIC's 1.2 million electric customers over its 43,000 square-mile territory.”<sup>35</sup> Ms. Lord then references Section 9-225(3) of the Public Utilities Act and Part 295 of the Commission’s rules to reach her opinion that because some of the challenged advertising contained a conservation message or a safety message, they are costs which are recoverable.<sup>36</sup>

<sup>34</sup> See Ameren Ex. 11.2, Workpaper 7, page 47, line 10.

<sup>35</sup> Ameren Ex. 17.0, page 3, lines 62-66.

<sup>36</sup> Id. lines 69-86.

Ms. Lord also indicates that some of the *Focused Energy. For Life* campaign included messaging to revise existing legacy company advertisements to inform customers that the AmerenCIPS, AmerenCILCO or AmerenIP entities no longer exist while other ads, “introduced messages designed to explain that smart grid technologies are used to enhance system reliability.”<sup>37</sup>

**Q. Does a regulated utility have sufficient opportunity through normal communication channels to advise customers of corporate name changes and other factual information?**

A. Yes. Through monthly billings, signage on buildings and vehicles, its web site, numerous call center contacts and other customer contacts, a utility is in regular contact with its customers and has no need for significant additional expenditures to enhance the public image of its brand. As a monopoly service provider with regard to energy delivery, it is not as though consumers can be influenced in the choice of their delivery service provider.

**Q. Has AIC included substantial amounts of 2011 expenses for printed customer communications, web site support, community outreach programs, media placement of advertising and community outreach programs, in addition to the Focused Energy for Life (“FEFL”) campaign costs you have disallowed in your Direct Testimony, as presented at page 6 of AG/AARP Exhibit 3.1?**

A. Yes. AIC Schedule WPC-8 at page 1 indicates that the \$604,302 of FEFL campaign costs represent only part of the \$2.5 million of total informational and instructional advertising expense incurred by the Company in 2011.

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<sup>37</sup> Id, lines 91-100.

801 **Q. Has AIC now provided additional information associated with its Focused**  
802 **Energy for Life campaign to illustrate the types of messages being**  
803 **communicated to customer and other audiences?**

804 A. Yes. The Company's response to Data Requests AG/AARP 6.24, 6.25, 6.26 and  
805 6.27 included additional details and supporting documentation for the activities and  
806 cost elements associated with the FEFL advertising efforts, as listed at pages 18-20  
807 of AIC Schedule WPC-8, that are the subject of the AG/AARP adjustment that I  
808 sponsor. Those materials are voluminous and/or confidential and were produced  
809 shortly before this testimony was finalized. Based upon a review of these  
810 documents, I have revised my proposed adjustment to FEFL costs using a 50  
811 percent disallowance factor, so as to recognize that these efforts and costs include  
812 some messaging that is allowable advertising under the Commission's rules, while  
813 also serving the dual purpose of enhancing the Company's image and reputation. I  
814 have included in AG/AARP Exhibit 3.4 copies of AIC responses to Data Requests  
815 AG 6.24, 6.25, 6.26 and 6.27 with selected voluminous attachments to illustrate this  
816 duality of purpose. As noted in my Direct Testimony, the image building efforts  
817 and costs incurred in connection with the FEFL program are not necessary for the  
818 provision of utility services and should not be funded by ratepayers.

819 **Q. How do you know that the Company's FEFL program has a dual purpose,**  
820 **providing information to customers regarding energy conservation and safety,**  
821 **while also improving the public image and reputation of Ameren?**

822 A. The documents provided in response to AG/AARP data requests, as contained in  
823 AG/AARP Exhibit 3.3, reveal this duality of purpose. For example, page 4 of

Attachment 5 to the AIC response to Data Request No. AG 6.24 explain the reason why video advertising is used as follows:

**1.1 Video for education.**

We focus our messaging efforts on education for a variety of reasons. Education can:

- Help our customers manage their energy use and costs more efficiently.
- Provide our co-workers with a clear understanding of our business and our strategy and how they contribute to our success.
- Generate a more positive perception in the minds of shareholders and encourage them to keep investing in Ameren.
- Provide regulators and legislators with a more complete understanding of our decisions to assist them as they review pending legislation and rate cases.

In the Confidential Attachment 20 to Data Request AG 6.24 at page 20, Ameren notes that “Brand Investment Boosts our Bottom Line” with the following bullet point explanations:

- Corporate Communications plays an essential role in:
  - Improving customer feelings/perceptions
  - Enhancing employee engagement
  - Building community relationships
  - Creating a more favorable regulatory environment
  - Corporate Communications activity also creates \$ value for shareholders.
  - Academic, industry and trade research shows that:
    - Strong brands increase appeal to investors.
    - Strong brands impact company stock performance/TSR.
    - Brand value can be quantified and tracked, like other financial metrics.

Similarly, Confidential Attachment 29 to Data Request AG 6.26 is a report on “Brand Influence” that reveals that much of the rationale behind investing in Ameren’s FEFL program is to increase the value of the Ameren brand.

**Q. Does your adjustment at AG/AARP Exhibit 3.1, page 6 reflect disallowance of 50 percent of the FEFL program costs, in place of the full disallowance that was recommended in your Direct Testimony?**

859 A. Yes. Lines 2 and 3 have been inserted to apply the proposed 50 percent  
860 disallowance factor to this proposed adjustment.

861 **Q. Have you changed your adjustment for Ameren's e-store merchandise**  
862 **expenses at line 4 of AG/AARP Exhibit 3.1 based upon Ms. Pagel's rebuttal**  
863 **testimony on this subject?**<sup>38</sup>

864 A. No. At line 417, Ms. Pagel states, "The e-store serves as a depository for branded  
865 items to be utilized by employees in the field or at community events, as well as for  
866 awards to recognize exceptional safety and employee performance." These costs  
867 are discretionary and not necessary to the provision of public utility service and  
868 AIC has made no showing that such costs are reasonable or prudently incurred in  
869 providing service. It would be reasonable to expect Company employees to provide  
870 their own logo-wear in connection with promotion of the new consolidated  
871 company name and not burden customers with such costs.

872

873 **C. Corporate Sponsorship Expenses**

874 **Q. Has Ameren conceded that its Corporate Sponsorship Costs, as listed in**  
875 **Ameren Exhibit 14.2, at pages 22-23 should be eliminated as you propose in**  
876 **AG/AARP Exhibit 3.1, page 6 ?**

877 A. No. Ameren has not conceded the need to exclude Corporate Sponsorship costs  
878 from its revenue requirement. In her Rebuttal, Ms. Pagel argues that, "These costs  
879 support worthy community events whose existence depends largely in part on  
880 corporate sponsors. These costs also often support events that provide opportunities  
881 for employees to volunteer their time." She asserts that these sponsorship costs

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<sup>38</sup> Ameren Ex. 14, pages 20-21, lines 401-434.

should be borne by ratepayers because, “These dollars are not intended to promote or build AIC’s image; they are intend to promote the community events.”<sup>39</sup>

**Q. Do you agree that ratepayers should fund Ameren’s event sponsorship costs, as proposed by Ms. Pagel?**

A. No. Community event sponsorship is a discretionary activity and expense not required to provide public utility services. It should be left to AIC to decide if the favorable public image and other intangible benefits that may be realized through such sponsorships are sufficient to justify a dedication of shareholder rather than ratepayer funding in the future.

#### **VIII. CONSTRUCTION WORK IN PROGRESS.**

**Q. Why has the adjustment you propose at AG/AARP Exhibit 3.1, page 7, been marked “Revised”?**

A. Ameren has now removed one of the CWIP projects proposed for rate base inclusion, because this project is included within the projected plant additions that were separately included in rate base.<sup>40</sup> The adjustment I propose on Exhibit 3.1 has been revised to recognize that the remaining project was partially financed by accounts payable balances. This means that AIC investors provided none of the capital used to finance these projects and they need not be included in rate base, for all the reasons stated in my Direct Testimony.

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<sup>39</sup> Id. page 24, lines 487-489 and 493-495.

<sup>40</sup> Ameren’s Rebuttal CWIP position is quantified at Ameren Ex. 13.2, Workpaper 15, Page 50.

**IX. CONCLUSION AND RECOMMENDATION.**

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907 **Q. What is your revised recommendation regarding the revenue requirement to**  
908 **be determined for Ameren in this Docket?**

909 A. I recommend that AIC's net delivery service revenue requirement be found to be no  
910 larger than the amount shown in AG/AARP Exhibit 3.1, at page 1, line 25 in  
911 column (j). This amount should be further modified for any Commission-approved  
912 ratemaking adjustments proposed by the Staff and other parties, that are not  
913 addressed in my or Mr. Effron's Direct Testimony.

914 **Q. Does this conclude your testimony at this time?**

915 A. Yes.